

POLITICO

We Reserve the Right to Lie About Our Politicians

By Elizabeth Ralph

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In Ohio, it's a crime to knowingly or recklessly lie about a political candidate or ballot initiative. When the Susan B. Anthony List, an anti-abortion nonprofit, attempted during the 2010 midterm elections to buy a billboard attacking then-Rep. Steven Driehaus, who represented the state's 1st congressional district, Driehaus's lawyers invoked Ohio law. And the billboard, which would have read, "Shame on Steve Driehaus! Driehaus voted FOR taxpayer-funded abortion"—a reference to the Affordable Care Act—never went up. In fact, Driehaus voted for the landmark health-care bill only *after* President Obama guaranteed that tax dollars would not be used to fund abortion.

After the election (which Driehaus lost), the Susan B. Anthony List filed a federal lawsuit challenging the Ohio law on free speech grounds. Next month, after several appeals, *Susan B. Anthony List v. Driehaus*, No. 13-193 is due to be argued before the U.S. Supreme Court. If the court decides that the nonprofit has standing to sue in the first place, the case could have a big effect on what's fair game during campaign season.

In the *amicus* brief submitted to the court and published below with their permission, political satirist P.J. O'Rourke and Ilya Shapiro of the Cato Institute make the case—earnestly, albeit facetiously—for the importance of protecting untruths, or "truthiness" in politics. What follows is perhaps the most entertaining—if not the greatest—legal brief in American history.